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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE CLERK

In the Matter of )  
 ) CC Docket 97-250  
Tariffs Implementing )  
Access Charge Reform )

**REBUTTAL COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY**

Consistent with the deadlines imposed by the *Order Designating Issues For Investigation And Order on Reconsideration* ("the Order"), Cincinnati Bell Telephone Company ("CBT"), an independent, mid-sized local exchange carrier, hereby respectfully submits its response to the opposition comments regarding CBT's Direct Case.<sup>1</sup>

**I. INTRODUCTION**

In addition to the specific rebuttal to the opposition's usual posturing about inflated access charges, CBT also wishes to suggest an alternative to the Commission's announced intention to require an accounting and "special two-way adjustment" at the conclusion of the instant investigation. As the Commission recognizes expressly in its Order, the end result of such an accounting/adjustment process would be neutral to the

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<sup>1</sup> CBT again notes that it is not named as a party to this investigation. See CC Docket No. 97-250, Order Designating Issues For Investigation And Order on Reconsideration, ¶ 102, Released January 28, 1998 (omitting CBT from the list of parties to investigation). However, because the Commission did suspend CBT's access tariff in the Access Charge Reform Suspension Order, (*Tariffs Implementing Access Charge Reform*, CC Docket No. 97-250, Memorandum Opinion and Order DA 97-2724 (Com. Car. Bur., rel. Dec. 30, 1997)), and because the instant order recognizes CBT as a price cap LEC whose access tariff raised issues warranting investigation (see Docket No. 97-250, Order Designating Issues For Investigation And Order on Reconsideration, note 3, Released January 28, 1998), CBT responded to this Order with a Direct Case and now files its rebuttal comments as if a designated party.

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end users and the companies if all costs and savings were passed on to the end users.<sup>2</sup> Notwithstanding the anticipated neutral result, the re-billing required by an adjustment process would be expensive and time-consuming for the companies and confusing to many customers. Because the costs of such an adjustment outweigh the anticipated benefits, and in light of the short period of time that will be at issue if the Commission acts by yearend, CBT respectfully suggests that the Commission determine that *all* of the rates at issue in these proceedings should be applied on a prospective basis only. CBT believes that “[t]his result is fully in accord with Congress’s directives . . . [because] Congress recognized that the conversion of the existing web of implicit subsidies to a system of explicit support would be a difficult task that probably could not be accomplished immediately.”<sup>3</sup>

## **II. DEFINITION OF PRIMARY AND NON-PRIMARY LINES**

Both AT&T, at pages 3 –7, and MCI, at 2 – 4, in their Comments on the Direct Case, object to the use of the “by account” approach for distinguishing between primary and non-primary residential access lines. The “by account” approach is the method that is being used by the majority of the price cap LECs. Applying AT&T's own logic in regard to Universal Service Funding methodology, where it argues that "all price cap LECs should be required to use the method . . . adopted by the majority of the price cap

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<sup>2</sup> Order at ¶ 7.

<sup>3</sup> In the Matter of Access Charge Reform, *First Report and Order*, CC-Docket 96-262 (released May 16, 1997), ¶ 9.

LECs,"<sup>4</sup> then AT&T should accept the majority's "by account approach."

Moreover, CBT strongly believes that it has provided a reasonable definition<sup>5</sup> for defining primary and non-primary lines which is fully in accordance with both the intent and spirit of the FCC's guidelines. CBT strongly believes that if the Commission insists on maintaining the distinction between primary and non-primary lines, the "by account" approach is by far the best method for several reasons. First, the "by account" approach better reflects the way each customer orders and is billed their service. In addition, CBT believes that this approach is much easier to administer, avoids arbitrary assignments and is easier to verify than any of the alternatives.<sup>6</sup> CBT believes that it was the Commission's intent to allow LECs to implement the distinction between primary and non-primary lines on as administratively reasonable basis as possible.

Neither AT&T nor MCI provide any support to refute the reasonableness of CBT's definition. Instead, their argument is result-oriented: they note that the "by service address" approach provides a higher number of non-primary lines and conclude that it is therefore the correct method. This is self-serving. The AT&T/MCI approach results in higher charges to the end user and lower charges to them. This result-oriented approach is clearly not in accordance with the Commission's goals of fairness and uniformity in charges. With AT&T's and MCI's track records of profiting from reductions in access charges rather than passing them on to end users, it is clear that under the "by service address" approach, the end user would be hit with a double charge

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<sup>4</sup> See page 30 of its Direct Case Comments in CC Docket 97-250 ("All Price Cap LECs Should Be Required to Use the Method of Universal Service Cost Allocation Adopted by the Majority of the Price Cap LECs").

<sup>5</sup> See CBT Direct Case at 3.

<sup>6</sup> MCI at page 4 of its Direct Case Comments, agrees that the "by account" approach is more verifiable.

because the end-user will pay the express \$1.50 SLC charge for non-primary lines and will also continue to pay the higher toll rate which resulted from the inclusion of the higher CCL charge.<sup>7</sup> Higher end user rates from the LECs with no reduction in long distance rates from AT&T and MCI does not conform to the Commission's goals in implementing access charge reform, and therefore the method proposed by AT&T and MCI should be rejected.

Both AT&T, at page 4 of its Direct Case Comments, and MCI, at page 2 of its Direct Case Comments, suggest that the Commission eliminate the distinction between primary and non-primary lines. In addition, Bellsouth, at page 3 of its Direct Case and GTE, at page 4-5 of its Direct Case, also support the elimination of the distinction. CBT sees merit in this proposal from an administrative standpoint and from a customer confusion standpoint. However, the problem of identifying primary and non-primary would still exist from a rate setting perspective if one were to implement AT&T's proposed weighted flat rate methodology. Arguing would continue between LECs and IXC's over the primary and non-primary definition.

A more appropriate alternative – and one that would eliminate the need to distinguish between primary and non-primary lines – would be to maintain the SLC at \$3.50, or to increase it by an inflation-based increment each year. Likewise, the

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<sup>7</sup> See Roy Neel Letter to FCC Chairman Kennard, February 11, 1998, p.2 ( "IXC's have increased charges to customers by approximately \$2.3 billion with not offsetting long distance decreases.) See also William E. Taylor & J. Douglas Zona, "An Analysis of The State of Competition In Long Distance Telephone Markets," NATIONAL ECONOMIC RESEARCH ASSOCIATES, INC., NERA Summary of Findings, p. 2 ("AT&T to pocket savings from reduced access charges meant for consumers. In 1994, AT&T failed to pass \$1.778 billion dollars on to consumers . . . .")

Commission could allow the PICC to continue to increase by its current proposed schedule for primary residential and single line business.

For the above reasons, CBT is not adverse to eliminating the primary and non-primary distinction, assuming that the distinction is truly eliminated. However, should the Commission reject this suggestion, CBT strongly recommends that the “by account” approach be accepted.

### **III. METHODOLOGY FOR CALCULATING EXOGENOUS COST CHANGES FOR LINE AND TRUNK PORTS**

#### **A. Part 69 Revenue Requirement Methodology Better Surrogate For Cost**

Both AT&T, at pages 13-21 of its Direct Case Comments, and MCI, at pages 6 – 11 of its Direct Case Comments, continue to object to the price cap LEC use of the Part 69 Revenue Requirement methodology to determine the exogenous cost changes for the line and trunk ports. This is the third bite at the apple for these parties, and yet neither has provided any convincing arguments to refute the Part 69 methodology. CBT provides the following summary of key points from its Direct Case that supports the use of the Part 69 methodology for CBT specifically and the industry in general as the appropriate method to identify the exogenous line and trunk port cost.

- CBT has not been on Price Caps for the seven years. Therefore, the Part 69 Revenue Requirement methodology is the best measure of exogenous cost for identifying line and trunk port costs.
- The Part 69 Revenue Requirement methodology will allow CBT and other price cap LECs to adhere to the cost causation principle. This method will allow the identification of the appropriate cost while maintaining the integrity and cost characteristic nature of the non-traffic sensitive cost (not sensitive to MOU).

- The Part 69 Revenue Requirement methodology will best reflect the underlying relationship from the original establishment of cost inherent in the rate.
- The Part 69 Revenue Requirement methodology will best reflect the adherence to the Commission's rules for cost assignment. These rules were the primary basis for the original establishment of the rates.

#### B. Treatment of Line Port Cost in Developing BFP

The intent of the Access Reform Order was to identify the cost of the line side ports and to shift this cost from the Local Switching to Common Line.<sup>8</sup> It is clear that the Commission intended for price cap LECs to include the entire amount of the cost shift in the reduction of the local switching rate and increasing the Common Line rates. At page 19 of its comments, AT&T objects to Bell Atlantic including the entire revenue shift from local switching to the common line rates, despite the fact that Bell Atlantic adheres to AT&T's proposed method of cost identification. AT&T suggests that the inclusion of the entire cost shift in the common line rates is in violation of the Access Reform Order because the CCL rate increases.

AT&T's argument has no merit. The Commission did not have a specific deadline relative to when the entire NTS cost would be recovered on a flat rate basis.<sup>9</sup> It is the Commission's own establishment of "CAPS" on SLCs and PICCs that creates a residual to be recovered via the CCL rate. In paragraph 60 of the Access Reform Order, the FCC states that "To the extent that ceilings on SLCs and PICCs do not allow recovery through flat charges of all common line revenues, LECs shall be permitted to impose a

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<sup>8</sup> See Access Reform Order, CC Docket 96-262, ¶6 and ¶129.

<sup>9</sup> Id., ¶54

per-minute CCL charge . . . .” Therefore, AT&T’s attempt to secure additional rate reductions by excluding costs to the extent it raises the CCL rates is groundless and must be rejected.

C. Going Forward Treatment for Line Port Costs in BFP Development

Both AT&T, at pages 20-21 of its Direct Case Comments, and MCI, at pages 9 – 11, attempt to establish a going forward methodology for handling line port costs. The Commission should reject both of their proposed methodologies because they are both more complicated than is required. CBT suggests that a much simpler approach should be developed. For example, the initial line port costs could grow at the same rate as the BFP revenue requirement or it could grow at the same rate as EUCLs. Either of these methods would be much simpler and would avoid the continuous arguments over costing methodology.

**IV. ADJUSTMENTS TO THE TIC**

Both AT&T, at pages 21-26 in its Direct Case Comments, and MCI, at pages 13 – 16 of in its Direct Case Comments, object to several adjustments made by price cap LECs to the TIC. Specifically, they identify the handling of COE Maintenance, Marketing and Actual MOU.

A. COE Maintenance and Marketing Exogenous Adjustments

CBT is not specifically mentioned by either AT&T or MCI as having misapplied the distribution of these exogenous adjustments to the various price cap baskets and the TIC. Specifically, AT&T concludes in footnote 40 that the direct cases reveal that a

majority of price cap LECs are appropriately handling the COE Maintenance expense and Marketing expense exogenous adjustments. In addition, CBT does not appear on AT&T's Exhibit COE which attempts to illustrate problems with various price cap LECs distributions.

B. Adjustment to TIC based on Conversion from 9000 MOU to Actual MOU

Both AT&T, at pages 24 – 26 of its Direct Case Comments, and MCI, at pages 13 – 15 of its Direct Case Comments, object to the fact that as a result of implementing the conversion from 9000 MOU to actual MOU and the reflection of the composition change in a price cap LECs network from DS1 to DS3 caused an increase in the TIC rate level. CBT implemented the Actual MOU and weighted average DS1 and DS3 network design that the Access Order contemplated.<sup>10</sup> In establishing the TIC rate for the July 1, 1997 annual filing, CBT was directed to value the residual TIC at 55% of the current TIC revenue.<sup>11</sup> Therefore, since it was required to utilize an estimate and then develop cost data to determine the actual facilities based levels for the January 1, 1998 filing, it is obvious from the Access Reform Order that the Commission intended for a true-up to occur since it required some price cap LECs to use estimates. In addition, if the Commission reviews AT&T Exhibit 9000\_MOU, AT&T admits that increases in the TIC are possible for some LECs. AT&T is only attempting to get an aggregate decrease.

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<sup>10</sup> See Access Reform Order, CC Docket 96-262, ¶ 206.

<sup>11</sup> Id., ¶235.



Therefore, since there is some inconsistency in the logic utilized by AT&T, CBT continues to recommend that the Commission reject AT&T and MCI's argument.

## **V. UNIVERSAL SERVICE ISSUES**

Both AT&T, at page 30 – 31 of its Direct Case Comments, and MCI, at pages 17 –18 of its Direct Case Comments, object to the use of Form 457 Revenues for distributing Universal Service Contributions amongst the price cap baskets. As CBT has previously stated in its reply comments to its Transmittal No. 712 filing and in this Direct Case, the use of the FCC Form 457 is appropriate to use for assigning USF Contributions to the price cap baskets. The Form 457 has detailed instructions that each contributor must follow in preparing the form. Since revenues from this form are the basis for determining the level of contribution to the funds, it is only appropriate that the distribution of the contributions to the price cap baskets match the same proportion as the revenues on the form.

Relative to AT&T's comment specific to CBT that it has mixed semi-annual revenue and quarterly revenue has no basis. The revenues as seen in CBT Exhibit EXG-USF are directly from its FCC Form 457 as filed on September 19, 1997 and are on a semi-annual basis.

CBT recommends that the Commission reject AT&T and MCI's objection to using the FCC Form 457 to assist in distributing USF contributions to price cap baskets.

## **VI. CONCLUSION**

For the reasons set forth above, CBT respectfully requests that this Commission reject the self-serving arguments of AT&T and MCI, and that the

Commission allow CBT's tariff to take effect as originally filed.

Respectfully submitted,



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